

Application No.: 10/606,100
Amendment Dated: July 27, 2006
Office Action dated February 27, 2006
Attorney Docket No.: 2233.001

Remarks/Arguments

Claims 1, 4, 5, 8, 13, 15, 16, 19, and 28-38 are in the application. Claims 1 and 28 are in independent form. Claims 2, 3, 6, 7, 9-12, 14, 17, 18, and 20-27 are cancelled by this amendment.

Claims Rejections – 35 U.S.C. § 112

Claims 3 and 5 stand rejected under 35 U.S.C. § 112, 2nd paragraph for indefiniteness. Claim 3 is cancelled. Claim 1 is amended to include only a single “assembling” step, thereby removing any ambiguity in claim 5. Moreover,

Claims Rejections – 35 U.S.C. § 101

Claims 1-13, 15-16, and 18-21 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility.

Amended claim 1 includes the step of “awarding a prize” and therefore claims statutory subject matter. Claims 4, 5, 8, 13, 15, 16, and 19 depend from claim 1. Claims 4, 5, 8, 13, 15, 16, 19, and 20-21 are cancelled.

Claims Rejections – 35 U.S.C. § 102

Claims 1-14 and 19-27 are rejected over 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 2004/0029627 to Hannan (“Hannan”).

Hannan teaches a lottery that requires skill. “[U]sers of the lottery are assured . . . that their own analysis of the sporting participant players or teams is partly responsible for winning the lottery. Thus, the lottery system of the present invention is not just luck.” Para [0011]. “Therefore, the skill of a user as a ‘handicapper’ in large part can increase the chances of that user winning.” Para [0021].

In the invention of claims 1 and 28, the winning numbers are determined by “just luck.” The numbers are first picked by a wagerer, and then the numbers are randomly assigned to a participant in the competition. Thus, the wagerer cannot pick a particular participant that he

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thinks will win, but has his participant randomly assigned. Thus, the lottery is based entirely on luck, but provides the feature that the winning numbers are determined by the event, thereby providing increased enjoyment by connecting the lottery with the event.

Claim 1 states: "the random numbers being assigned to the final participants after accepting the wager so that the wagerer does not know which participants corresponds to the one or more picked numbers when they are picked." Claim 22 states: "randomly associating with participants in a competition the numbers in the set of available lottery numbers after accepting the wager" and "the wagerer not knowing at the time his numbers are picked which numbers will be associated with which participants."

While Hannan teaches that a user has the option of allowing a computer to select his numbers (para [0075]), the outcome of the lottery is still not random, because the numbers that are most likely to be in the winning combination are the known numbers of the winning contestants. In the claimed invention, the winning numbers are random, because they are randomly assigned to the participants, so even if the event were "fixed" and the winner known beforehand, the winning numbers would still be random and unknown when the wagers were made. By making all outcomes equally likely, the odds of winning the lottery and the calculated payoffs are easier to calculate and can be determined without regard to a heavy favorite in the competition. Thus, while Hannan teaches that the wagerer's pick can be random, he does not teach that the winning numbers can be random.

Claims Rejections - 35 U.S.C. § 103

Claims 15-18 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, in the alternative under 35 U.S.C. as obvious over Hannan. Claims 17 and 18 are cancelled. Applicants submit that claims 15 and 16 are patentable for the reasons described above with respect to claim 1.

The Examiner states that it is known that winner continue into the next round of a phased competition. Applicants submit that the claim 15 recites "entering wagering data D_w into a second lottery phase based upon the outcome of the comparing step." (emphasis added). Thus, in the invention of claim 15, the second lottery is not based on a new competition, but is based on the same competition as the original lottery. As described in the specification on page 16,

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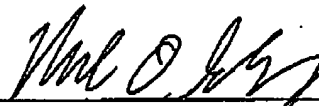
lines 7-19, the loser enters his losing data in a second lottery phase for another chance to win based on the same race or other competition.

Applicants submit that providing the user a second bite at the apple for the same competition is not taught or suggested by Hannan.

Applicants submit that the claims are not obvious or anticipated by the reference and respectfully request reconsideration and allowance

Very truly yours,

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